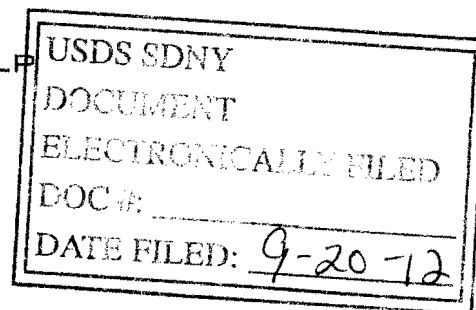


SHER TREMONTE LLP



September 19, 2012

MEMO ENDORSED**BY FACSIMILE**

Honorable P. Kevin Castel
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: In re Bank of Am. Corp. Sec., Derivative & ERISA
Litig., 09-MD-2058 – Relating to 12-cv-5210 (PKC)**

Dear Judge Castel:

We represent plaintiffs Dr. Salomon Melgen, Flor Melgen and SFM Holdings Limited Partnership in the above-captioned case. We write in response to defendants' letter, dated September 13, 2012, requesting a pre-motion conference for defendants' intended motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), 9(b) and 23.1.

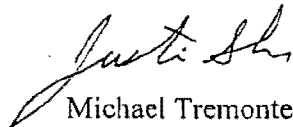
Plaintiffs intend to contest the arguments set forth in defendants' letter. First, we disagree that the Notice of Pendency of Class Action referred to in defendants' letter constitutes a bar to plaintiffs' claims. Second, we disagree that plaintiffs' claims relating to Bank of America Corp.'s ("BAC") disclosures in connection with the Merrill Lynch merger are barred by the Securities Litigation Uniform Standards Act ("SLUSA"). We also intend to contest defendants' arguments for dismissal of plaintiffs' claims that arise out of allegations unrelated to the Merrill Lynch merger.

Hon. P. Kevin Castel
September 19, 2012

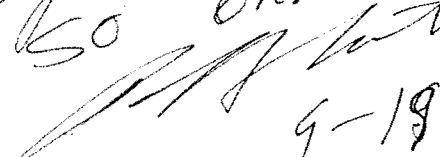
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We look forward to the opportunity to fully brief these issues in our opposition to the defendants' motion to dismiss. However, should the Court require a more detailed summary of our arguments in opposition to the arguments that are adumbrated in defendants' September 13 letter, we respectfully request until September 28, 2012 to submit a supplemental response.

Respectfully Submitted,


Michael Tremonte
Justin M. Sher

cc: Paul J. Lockwood, Esq.
Scott D. Musoff, Esq.

Application granted.
Pre-motion conference
request will be
taken up at the October 15
conference.
SO ORDERED

9-19-12